

JUL 11 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

GINNY SINGH,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-70071

Agency No. A73-682-139

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 1, 2008^{**}

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

Ginny Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") order summarily affirming an immigration judge's decision denying his application for withholding of removal and relief

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. *Fernandez-Ruiz v. Gonzales*, 468 F.3d 1159, 1163 (9th Cir. 2006).

We dismiss the petition for review in part and deny it in part.

We lack jurisdiction to review Singh’s contention regarding adjustment of status, as it was not exhausted before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (exhaustion is mandatory and jurisdictional).

The record does not compel the conclusion either that the abuse Singh experienced while detained occurred on account of a protected ground, *see Sangha v. INS*, 103 F.3d 1482, 1491 (9th Cir. 1997), or that it is more likely than not that he would be persecuted on account of a protected ground if returned to India, *see Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001).

Singh is not entitled to CAT relief because he did not demonstrate that it is more likely than not that he would be tortured if returned to India. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.